



University of
St Andrews

External work

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Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date

The University

1. It is the purpose of this document to indicate the current policy of the University Court of the University of St Andrews (“the Court”) with regard to the involvement of staff in work for outside organisations (External Work) and to the circumstances and conditions in and upon which the Court will give consent to academic and academic-related staff to carry out External Work (as hereafter defined). It supersedes the document ‘External Work – Policy Document for Academic and Academic Related Staff’ published in November 1992. The document also summarises the policy of the Court with regard to the role of Research and Enterprise Services (RES), the Research Grants Finance Office (RGFO), Centre for Continuing Education and St Andrews Learning and Teaching Innovation Review and Enhancement (SALTIRE).
2. The standard Terms and Conditions of Service of Employment for academic staff of the University of St Andrews specify certain duties in relation to teaching and examining and the prosecution of advanced study and research. These imply the fulltime nature of the appointment. Consequently an academic member of staff may not undertake any outside paid work without the prior written consent of the Court other than in the exceptional cases detailed in this document; a similar requirement to obtain prior written consent before undertaking External Work is also stated explicitly in academic related staff contracts.
3. As a general rule, permission to carry out External Work is only likely to be withheld in circumstances where the interests of the University could be adversely affected. If such permission is withheld, members of staff will be advised of the reasons, in writing. The Court is particularly concerned that matters relating to the confidentiality of University business and activities are taken into consideration in such decisions. Irrespective of specific commitments in staff contracts, the Court requires staff to respect University confidentiality in all dealings with external bodies.
4. The types of activity which are more fully described below and which may involve staff in work for outside organisations fall into a number of categories as follows (“External Work”):
 - a. Writing of books and/or learned articles.
 - b. Commercially funded research and projects.
 - c. Provision of University services.
 - d. Continuing education.
 - e. Teaching and learning materials.
 - f. Evaluation, management and exploitation of innovation.
 - g. Business interests.
 - h. Consultancy.
5. Of these item (i) does not require the permission of the Court; neither is the consent of the Court required for the acceptance of outside examinerships, fees for occasional lectures or for conducting religious services and remuneration for occasional literary and/or artistic work.
6. The Court recognises that some staff undertake External Work in the areas covered by items (ii)-(viii) and is aware of the benefits such interactions may bring to the University and to the staff involved. It encourages staff to include such activities in their curricula vitae submitted for purposes of probation, promotion, etc.
7. The Court also recognises the need for all External Work to be properly costed and co-ordinated and for an accurate record to be maintained of all such activities. The purpose of

the costing exercise is to establish the true cost of the External Work to the University on the basis of both direct and indirect costs.

8. A price can then be determined on behalf of the University by RES in the clear knowledge of whether this covers the full cost of the External Work or whether it is effectively being subsidised by the University. The latter case may be acceptable in instances in which the intellectual interest of the External Work or the existence of other benefits to the University justifies the situation.
9. The Court places no restrictions on the earnings of staff from External Work but it would not normally consent to staff proposing to devote more than the equivalent of 30 days per annum (outside normal duties) to such work.
10. In some cases External Work may be designated as a duty and will not attract any additional payment for staff involved. Contractually, duties are defined by the Head of School with the assistance and advice of the Staff Council or by the Head of Unit; the appropriate member of the Senior Management Group will act as arbiter in any cases of dispute and receive advice from the Director of Human Resources and the Director of RES. Subject to the overall authority of the Principal and an agreed financial practice, the Court delegates the co-ordination of External Work to RES, which will report through the VP Research to Court.
11. As the type of External Work is so varied, a fuller explanation of each type, and the rights and obligations arising from these follows in Section C.

Ownership of intellectual property (IP)

12. The University asserts its de facto ownership rights over all intellectual property (IP) produced by its employees. Only in limited and very specific circumstances does the University waive any such rights of ownership; the diagram below serves as a summary of the University's approach to managing ownership of its intellectual property assets.

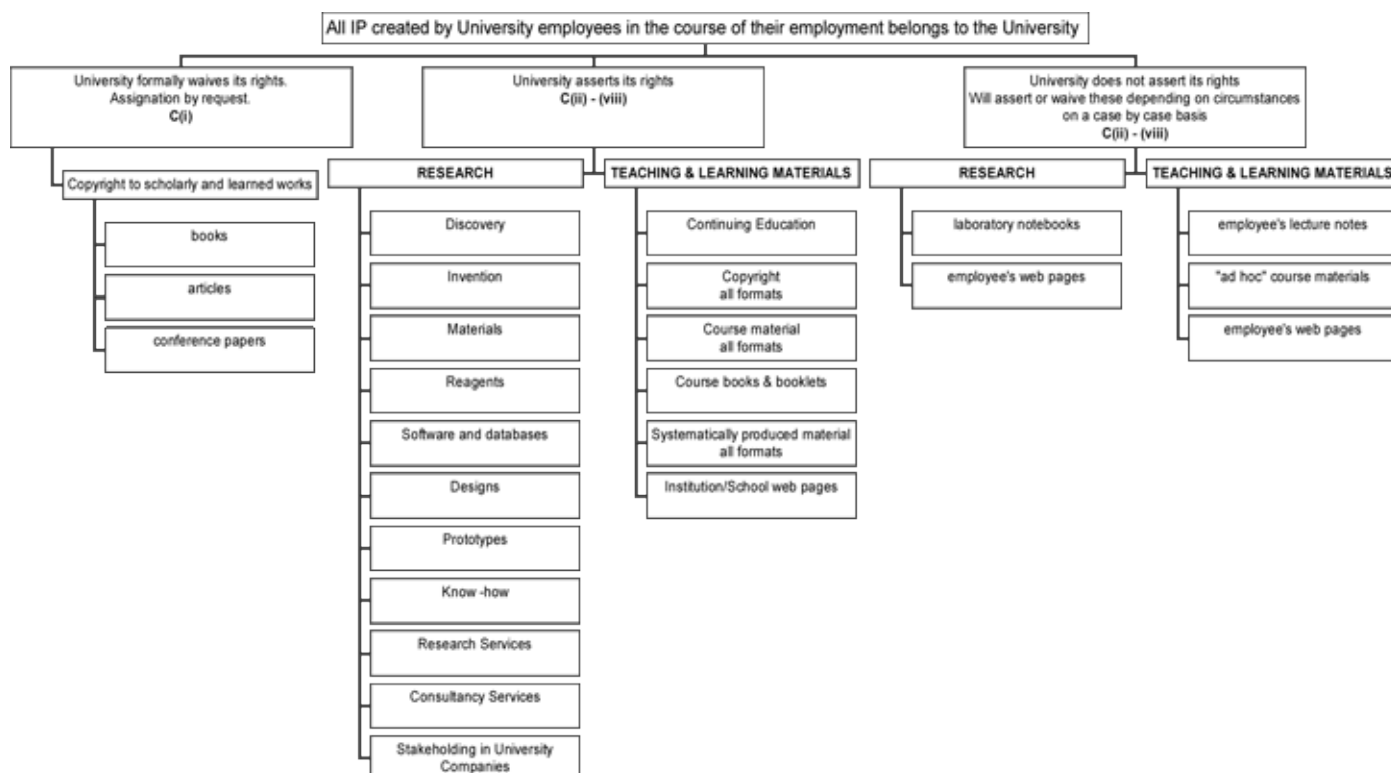


Figure 1. Explanatory schematic of the University's position with regard to IP.

13. Relevant legislation is found in the Registered Designs Act 1949, the Patents Act 1977 and the Copyrights Designs and Patents Act 1988. The attention of staff is drawn to the following extract from the Patent Act 1977:

Section 39 of the Patents Act 1977

1. notwithstanding anything in any rule of law, an invention made by an employee shall, as between him and his employer, be taken to belong to his employer for the purposes of this Act and all other purposes if
 - a. it was made in the course of the normal duties of the employee or in the course of duties falling outside his normal duties, but specifically assigned to him, and the circumstances in either case were such that an invention might reasonably be expected to result from the carrying out of his duties; or
 - b. the invention was made in the course of the duties of the employee and, at the time of making the invention, because of the nature of his duties and the particular responsibilities arising from the nature of his duties, he had a special obligation to further interests of the employer's undertaking.
2. any other invention made by an employee shall, as between him and his employer, be taken for those purposes to belong to the employee.

14. Sub-section (2) of the above Act is expanded in subsection (3) of the Copyright Designs and Patents Act 1988 with regard to infringement of the employer's rights in terms of copyright and design.

15. Previous to the Copyright, Designs and Patent Act 1988, design rights only existed in terms of those registered under the Registered Designs Act 1949. The following extract is relevant in the present context:

Section 215 of the Copyright, Designs and Patents Act 1988

1. The designer is the first owner of any design right in a design which is not created in pursuance of a commission or in the course of employment.
2. Where a design is created in pursuance of a commission, the person commissioning the design is the first owner of any design right in it.
3. Where, in a case not falling within Sub-Section (2), a design is created by an employee in the course of his employment, his employer is the first owner of any design right in the design.
4. If a design qualifies for design right protection by virtue of Section 220 (qualification by reference to first marketing of articles made to the design), the above rules do not apply and the person by whom the articles in question are marketed is the first owner of the design right.

External work

Books and learned articles

16. Permission is not required to enter into agreements with outside bodies to write books of an academic nature or learned articles. Except where specifically provided for by agreement between the Court and staff concerned the University waives its claim to copyright in books or in papers for learned journals.

17. Commercial exploitation of computer software and electronic media copyright material arising from work carried out within the University will be treated on the same basis as that described in Sections C(v) and C(vi).

Commercially funded research and projects

18. Commercially funded research is defined to include all agreements with outside organisations (other than Research Councils and recognised public or charitable grant awarding bodies) to provide research related facilities and/or to carry out specific projects.
19. The 2001 SHEFC Research Assessment Exercise (RAE) 'Definition of Research and Other Services Rendered', part of which is reproduced below, offers some advice on distinguishing between 'research' related work discussed in this section, and the 'provision of services' discussed in Section C(iii).

Research is to be understood as original investigation undertaken in order to gain new knowledge and understanding. It includes work of direct relevance to the needs of industry, as well as to the general public and voluntary sectors; scholarships, the invention and generation of ideas, images, performances etc. It excludes routine testing and analysis of materials, components, and processes, etc...

20. This distinction is necessary in terms of internal University accounting procedures and of reporting data to the Scottish Higher Education Funding Council and other relevant bodies.
21. Staff are encouraged to look towards industry, commerce and other outside agencies, in addition to the Research Councils and charities, as potential sponsors but are reminded of the importance of the requirement that all such work is properly priced and executed contracts in place prior to starting work.
22. All commercially funded research and projects must be costed in consultation with, and approved by, the appropriate Associate Director of RES before any formal application for funding or any quotation is submitted. Project Costing Forms, which should be used, are available on request from RGFO and RES.

Provision of University services

23. Schools and Units are encouraged to provide services and facilities, where possible, to outside organisations on a commercial basis. 'Services and facilities' are considered to fall outside the RAE definition of 'research'. As a general rule, services are provided at a full commercial rate and provision of such services is seen as having two main advantages to the University; (i) earning revenue and (ii) providing useful contacts with the industrial and commercial world.
24. RES provides the formal administrative link with the customer and will carry out the necessary contractual arrangements on behalf of the University; RGFO will raise all invoices for services, except where other agreed procedures are in place, and oversee the relevant sharing of revenue between staff, the School (or Unit) and General Funds.
25. Staff may be involved in the provision of such services either on the basis that it is part of their duties as defined by the Heads/Chairperson with the assistance and advice of the Staff Council (or by their Head of Unit) or that it is regarded as additional to their normal duties. In the former case the question of additional payment does not normally arise whilst in the latter

case it is regarded as de facto consultancy (See Section C(viii)) and an appropriate fee or rate will be negotiated directly with staff involved.

26. All services which involve the use of University equipment, facilities or staff time, or which are tendered or won using the University's name or reputation, must be costed in consultation with and approved by the appropriate Associate Director of RES before they are offered to outside organisations.

Continuing education

27. Seminars, conferences or similar events and teaching and/or training courses open to the public, specific groups of the public or outside organisations fall within the definition of Continuing Education. The Court recognises the benefits of these activities to the University and encourages Departments and staff to expand their participation, wherever possible.
28. Staff are encouraged to bring potential opportunities for this type of activity to the attention of the Director of Continuing Education.
29. Staff may be involved in the provision of Continuing Education either on the basis that it is part of their duties as defined by the Heads/Chairperson with the assistance and advice of the Staff Council (or by their Head of Unit) or that it is regarded as additional to their normal duties. In the former case the question of additional payment does not arise whilst in the latter case it is regarded as de facto consultancy (See Section C(viii)) and an appropriate fee or rate will be negotiated directly with staff involved by the Director of Continuing Education.
30. This type of activity is recognised in the central funding allocation and the University has a responsibility to report all such activity on an annual basis. Staff are therefore required to submit details of course/event numbers, contact hours, and income to the Centre for Continuing Education.
31. The provision of Continuing Education, both vocational and non-vocational, is co-ordinated through the Director of Continuing Education but it is recognised that some of this activity is organised within individual Schools. Staff with the responsibility for running such events are required to ensure that the costing and pricing of such events has the approval of the Director of Continuing Education before they are offered. Assistance is available from the Centre for Continuing Education who can advise on costing, pricing and implementation.

Teaching and learning materials

32. All types and formats of teaching and/or training materials available to students, or open to the public, specific groups of the public or outside organisations fall within the definition of Teaching and Learning Materials. The Court recognises the benefits of the University holding and using these materials and encourages Schools and staff to both expand their participation in producing such material, and to bring all such material to the attention of the Director of SALTIRE.
33. Staff may be involved in producing Teaching and Learning materials either on the basis that it is part of their duties as defined by the Heads/Chairperson with the assistance and advice of the Staff Council (or by their Head of Unit), or that it is regarded as additional to their normal duties. In the former case the question of additional payment does not arise whilst in the latter case it is regarded as de facto consultancy (See Section C(viii)) and an appropriate fee or rate will be negotiated directly with staff involved by the Director of SALTIRE.

34. The provision of Online Teaching and Distance Learning is co-ordinated through the Director of SALTIRE but it is recognised that the majority of this activity is organised within individual Schools. Staff producing such electronic material are required to register course material with SALTIRE. Assistance is available from SALTIRE who can advise on costing, pricing, implementation and delivery of course material before these are offered externally.

Management and exploitation of innovation

35. The Court encourages the development and commercial exploitation of inventions and innovative designs and ideas by staff, to the mutual benefit of the inventor(s), the relevant School and the University. Further, the Court regards it as a specific responsibility of all staff to attempt to recognise and to report promptly any exploitable ideas or inventions arising from their research before any rights are lost through premature disclosure.

36. RES provides general advice to staff in this area and also provides a link to organisations involved in technology transfer and commercialisation.

37. Staff should inform the appropriate Associate Director of RES of any inventions, developments, hardware or software, that they consider may be of potential commercial value before making any approach to industry or to other agencies, and before any public disclosure or publication of relevant data. Care must always be taken by inventors to ensure that any invention is not disclosed before formal agreement is reached.

38. If patent protection is deemed possible, the University may offer to obtain such protection for a period of one year pending further exploration of the likely commercial value of the invention. Patent application in the UK is sufficient to ensure backdating of subsequent patents in most other countries to the filing date of the UK application. Patents are taken out in the name of the University with staff cited as named inventor(s). The continuation or extension of patent cover to other countries will depend on individual circumstances and will be reviewed annually.

39. Any revenue accruing to the University from a licensing agreement is shared between the University and the inventor(s) after deduction of all legal and patent costs. The following scales will be used for sharing net royalty income:

Net receipts	Inventor(s) %	School %	University %
First £20,000	75	16.7	8.3
Sums >£20,000 and <£500,000	50	16.7	33.3
Sums <£500,000 and <£2m	33.3	16.7	50
Sums >£2m and <£10m	25	20	55
Sums >£10m	20	20	60

40. If the Court decides that it has no interest in an invention, the inventor will be informed in writing without undue delay and the inventor may formally request assignation and then proceed independently if he/she so wishes.

41. In certain circumstances the University may be involved in forming a new company, a “start-up” company, to facilitate the exploitation of a University technology. In such cases the University will hold an equity share in the start-up company, the level of which will be

determined by the value of the university's technology, investment and support, and through negotiations with the start-up company's investors and management.

42. Revenues accruing from equity, whether from share dealings by the University or from dividends paid to shareholders in start-up companies will be disbursed to the technology's inventors as per net royalty income.

Business interests

43. Staff may accept directorships of companies, positions on advisory boards, or other similar interests in businesses operating within or outwith the University, whether paid or unpaid, subject to compliance with the section D of this document relating to Conflict of Interest, and the agreement of the VP Research in consultation with the Director of RES. Staff must request approval in writing from the Director of RES who will maintain a register of activities. Staff are required to inform RES as soon as they relinquish such positions.
44. If the position involves financial remuneration or the remuneration offered takes the form of shares, share options or other form of equity for work undertaken then staff should apply through the procedures outlined in Section C(viii). In any cases in which any form of equity is offered the approval for a University staff member to accept will be dependent on compliance with the University's policies, particularly that described in Section D below.
45. University staff are permitted to hold equity in University of St Andrews startup companies. Staff involvement in both equity ownership and start-up company business is subject both to an individuals' contract of employment with the University and the University's External Work policies. Any such equity holding should be advised to and approved by the Director of RES who is required to keep a register of all staff shareholdings in University of St Andrews start-up companies.

Consultancy

46. The Court encourages staff to undertake consultancy work provided that this does not significantly interfere with their teaching, research and other obligations within the University. Such work should normally be of a nature likely to enhance the professional knowledge and competence of staff and is by definition additional to their normal duties.
47. Staff considering undertaking any form of Consultancy are required to complete and submit a Consultancy Form, available from RES, and receive due authorisation before accepting any such work, whether paid or unpaid. All consultancy work must be authorised by the Court and the Court has delegated the authorisation of consultancies and related work to the Director of RES. S/he is required to seek the Principal's approval in cases where more than the equivalent of 30 days of consultancy work per academic year is envisaged and these may affect the employment contract of staff involved.
48. There are two recognised categories of consultancy work:
 - a. **University Consultancy:** In this case, staff are employed on a consultancy basis within the frameworks outlined in Sections C(ii) – C(vii) above, their consultancy fees are negotiated during the costing of the External Work; the consultancy rates will be appropriate to the External Work and will not necessarily be related to the salary of staff. The University is normally the main contracting party with all the consequent liabilities and responsibilities. The University carries out the contractual arrangements and provides the member of staff with professional indemnity insurance, up to the

financial limit of cover, provided that any alleged act of negligence was not wilful. The consultant acts as an authorised agent of the University.

- b. **Private Consultancy:** In this case, unlike (a) above, staff make their own arrangements with the customer and are personally liable with regard to any claims arising from the work undertaken in respect of any materials, information, advice, etc. Staff undertake Private Consultancy as individuals and not as agents of the University.

49. Staff are also required to inform their client that they are acting in a private capacity, and that the Court will not in any circumstances accept responsibility for their work. The University will also notify the body or person in similar terms.
50. The University makes no claim on any money earned by staff in this respect, although any use of University services, facilities or staff-time arising from Private Consultancy must be declared and will have to be paid for at an appropriate commercial rate.
51. Under no circumstances should any correspondence, supporting documentation, reports, etc. be made available to such third parties bearing the University name or the University Crest or in any other way give the impression that the individual is acting as an agent, or trading on behalf of the University. Subject to this, university staff acting as expert witnesses or as editors of academic and learned journals may do so as private consultants following authorisation by the Director of RES.
52. The University maintains the right to refuse an employee the right to undertake private consultancy in instances where the consultant has traded on the University's or School's name, reputation or resources to win a contract and in instances that are determined as in conflict (Section D) with a staff members' University responsibilities.

Conflict of interest

53. A conflict of interest may arise in situations where financial or other personal considerations could directly and significantly affect, or appear to affect, the professional judgement of a member of University staff in exercising any University duty or responsibility or in conducting or reporting science.
54. A member of staff may be considered to have a conflict of interest when s/he possesses a significant financial interest in an activity that involves his or her responsibilities as a University employee. In addition, a member of staff may not, without University approval, conduct research in the field of his or her University responsibilities externally or in competition with the University and its legitimate interests when that research is within the course and scope of his or her University employment.
55. It is University policy that all members of staff are expected to avoid conflicts of interest that have the potential, directly and significantly:
- To adversely affect the University's interests e.g. by competing in providing private services rather than promoting University services, misrepresenting the University etc.
 - To compromise objectivity in carrying out University duties and responsibilities; or
 - Otherwise to compromise the performance of the employee's University responsibilities.
56. Accordingly, outside activities and financial interests must be arranged to avoid such conflicts.

57. There are three categories of Conflict of Interest, examples of which are given below.

a. Activities routinely permitted, generally not requiring disclosure to the University

- i. Receiving royalties for published scholarly works or for inventions under the University Patent and Copyright policies;
- ii. Membership in and service to professional associations, learned societies and professional review and advisory panels;
- iii. Requiring or recommending one's own textbook or other teaching aids (software etc.).

b. Activities that may be permissible following disclosure to the University

- i. Participating in University clinical research on a technology developed by that individual (or a family member);
- ii. Participating in University based research involving a technology owned or contracted to a business in which the individual (or family member) has a significant financial interest (includes equity and revenue shares);
- iii. Receiving through contract or gift University-sponsored research support for research from a business in which the individual (or family member) has a significant financial interest;
- iv. Serving on the Scientific Advisory Board, the Board of Directors or assuming an executive position in a company. Where an official or an employee of the University also acts as a director of a company, s/he will owe separate duties of care to the institution and to the company to act at all times in the best interests of each;
- v. Holding a financial interest in a business operating in a field related to the individual's University responsibilities.
- vi. Private Consultancy undertaken whilst an employee of the University.
- vii. Ownership of or equity in a corporation used solely for that individual's Private Consultancy activities.

c. Activities expressly prohibited

- i. Allocating University resources to the benefit of projects sponsored by a business in which the individual (or family member) has a significant financial interest;
- ii. Assuming an executive position or holding a significant financial interest in a business which competes with any services or activity provided by the University (e.g. teaching, education, research and consultancy);
- iii. Associating one's name or work with an external activity in such a way as to profit by trading on the reputation or good will of the University;
- iv. Publishing or formally presenting results of research under University auspices, or providing expert commentary on a subject, without simultaneously disclosing to the readership or audience any significant financial interest relating to such results or subject.
- v. Unauthorised use of privileged information acquired in connection with one's University employment and responsibility;
- vi. Influencing the contract negotiation process on behalf of an outside organisation in which the individual (or family member) has a financial interest.

The most important aspect in managing any conflicts of interest is an early determination of where or when these might occur, avoidance planning and in cases where a conflict occurs, effective managed action.

Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date